IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 21 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

RAMESHBHAI THOBHANBHAI

Appearance:

MR KP RAVAL, ADDL. PUBLIC PROSECUTOR for Petitioner

MR DK MODI for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 09/05/2000

ORAL JUDGEMENT

1. This is a revision application u/s 397 read with section 401 of the Criminal Procedure Code, at the instance of the State of Gujarat on behalf of the Food Inspector, Office of the Commissioner of Food & Drugs Control Administration, Rajkot. The petitioner herein

challenges the order passed by the trial Court below exh.11.

2. The short facts pertaining to the present application are that the accused - respondent in a case under the Prevention of Food Adulteration Act was served with a notice u/s 13[2] informing him of his right to send a sample to the Central Food Laboratory. The accused exercised his right to have the sample analyzed by requiring the Food Inspector to have the same sent to the Central Food Laboratory for analysis. The complainant Food Inspector then filed exh.11 before the trial Court contending that since it is the accused who wanted to get the sample analyzed, the accused should be asked to pay the necessary fees for such analysis. Consequently, it was urged in the said application that it is not the duty of the prosecution to pay for such analysis fees, and the complainant therefore asked the Court to pass an order that the complainant is not required to pay such fees. The trial Court rejected the said application, and hence the present revision by the State.

3. The short point in controversy in the present revision is as to whether the complainant is required to pay the fees in respect of the analysis sought by the accused u/s 13[2] of the Prevention of Food Adulteration Act.

4. This point is squarely covered by a decision of this Court in Special Criminal Application No.803/98 dated 7th October 1999 [Coram : C.K.Buch, J.], according to which the complainant - prosecution is required to pay such fees.

5. In the premises aforesaid, there is no substance in the present revision and the same is accordingly dismissed. Rule is discharged. Interim relief stands vacated.

*****

parmar*